

In the Matter of Merchant Mariner's Document No. Z-1003472
Issued to: EDGAR W. EVANS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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EDGAR W. EVANS

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1

On 31 December, 1952, an Examiner of the United States Coast Guard at New York, N. Y., revoked Merchant Mariner's Document No. Z-1003472 issued to Edgar W. Evans upon finding him guilty of "misconduct" based upon one specification alleging in substance, that while serving as ordinary seaman under authority of the document above described, on or about 2 December, 1952, while the U.S.N.S. HAITI VICTORY was at Bremerhaven, Germany, he wrongfully had in his possession a narcotic substance; to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification.

Thereupon, the Investigating Officer narrated the circumstances of the case which eventuated in filing the charge. Appellant made an unsworn statement undertaking to explain his possession and use of a marijuana cigarette at the time and place stated.

At the conclusion of the hearing, having heard the statement of the Appellant and offered Appellant and the Investigating Officer an opportunity to present proposed Findings and Conclusions, the Examiner found the charge "proved" by plea and entered an order revoking Merchant Mariner's Document No. Z-1003472 and all other valid licenses, documents, certificates and indorsements issued to Edgar W. Evans.

From that order, this appeal has been taken, and it is urged, inter alia:

1. The Examiner did not give recognition to Appellant's past conduct and general character;
2. The Examiner misinterpreted and distorted statements made by Appellant;

3. The current regulations only apply when marijuana is possessed and used on shipboard;
4. Appellant's failure to conceal the marijuana cigarette shows that he did not commit a wilful offense.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On 2 December, 1952, among other dates, the person charged was serving as ordinary seaman under authority of his Merchant Mariner's Document aboard the U.S.N.S. HAITI VICTORY.

On the early morning of 2 December, 1952, while the ship was at Bremerhaven, Germany, the person charged found a partly smoked marijuana cigarette on the ventilator in one of the ship's heads.

The person charged, although he was fully aware of the seriousness of wrongful possession of a narcotic substance by reason of information contained on the bulletin board of the ship to the effect that such violation might result in an imprisonment and fine, nonetheless, placed the half-smoked cigarette in a package of legitimate cigarettes which he was carrying.

Later that day he departed the ship with the marijuana cigarette in the package of legitimate cigarettes and while walking toward a cab to take him away from the dock area, smoked part of the marijuana cigarette.

He thereafter put it out and entered the cab, and as he was leaving the gate area was searched by Customs officials and the partly smoked cigarette was found among the other cigarettes in the pack of legitimate cigarettes.

Subsequent to this occurrence the person charged was duly arrested, charged with wrongfully possessing marijuana and tried in a court of the U. S. Allied High Command and on his plea of guilty was fined \$50 and sentenced to 90 days imprisonment which was suspended; he thereafter returned to the ship and sailed aboard her to the United States.

The cigarette which the person charged had found aboard the ship was recognized by him as a marijuana cigarette and he took it into his possession knowing it to be such.

OPINION

I find no reason, in this case, to disturb the Examiner's order.

Nothing has been presented, on appeal, which merits my modification of the Examiner's

order. I have given careful consideration to all points presented; but still find no reason to disturb the Examiner's Order.

ORDER

The Order of the Examiner dated New York, New York, on 31 December, 1952, is ~~REVERSED~~ **AFIRMED**.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 26th day of March, 1953.